

94 REMARKS

95 Old claims 1-15 have been canceled without prejudice and replaced by new
96 claims 16 -33. Note that the application, as filed, contains 15 claims and not 17 claims
97 as stated by the Examiner.

98 New claims 16-33 are completely supported by original claims 1-15 and by the
99 disclosure as filed. The disclosure, at page 4, line 98, to page 5, line 5, makes clear
100 that the material of construction of the capsule coating, that is, the enclosing wall of the
101 capsule, is the principle issue addressed in the invention. Refer to the disclosure at
102 page 5, lines 103 to 119, and note that the disclosed invention is a capsule having a
103 hollow interior and an enclosing wall, referred to as a membrane, which is permeable to
104 water or an aqueous solution. The disclosure at page 7, lines 149 and 150, states that
105 the membrane has an interior surface and an exterior surface and original claim 1
106 clarifies that the capsule wall is not soluble in an aqueous liquid in contact with the
107 exterior surface of the capsule. New claims 16, 18-20, 22, 24, 25, and 28-33 are
108 directed to the capsule coating.

109 As required by the Examiner, the title of the invention has been changed from
110 the original to one which is more descriptive of the invention. Accordingly,
111 "ENCAPSULATED COMPOSITIONS" has been deleted and replaced by "HOLLOW
112 CAPSULE HAVING A WALL PERMEABLE TO WATER OR AN AQUEOUS
113 SOLUTION." It is obvious that the new title contains more than 1 or 2 words.

114 As required by the Examiner, the original ABSTRACT OF THE DISCLOSURE
115 has been deleted and replaced by a new ABSTRACT OF THE DISCLOSURE "which is
116 descriptive of the disclosed invention." The new ABSTRACT OF THE DISCLOSURE
117 contains a description of the chemical and physical nature of the enclosing wall of the
118 capsule and refers to the utility and operation of the article of this invention.

119 There are no related applications.

120 Requirements For Restriction

121 This Response is submitted pursuant to the requirement for restriction based on
122 the Examiner's assertion that the Markush content of old claims 1-15 include
123 independent and distinct inventions so unrelated as to place a serious burden on the
124 Examiner to search and examine the claims. Claim 16, the broadest claim now of
125 record, does not contain a Markush group and makes no mention at all of any species
126 except the identity of the first material. The Examiner should be under no serious
127 burden with regard to the content of claim 16. New claims 17, 19, 20 and 22 do contain
128 Markush groups. These claims are positioned in the claim arrangement to aid in the
129 examination process.

130 The requirement of the Examiner that Applicant specifically name a single
131 species drawn from a disclosed pool of exemplary operative species is submitted to be
132 an overly broad interpretation of the practice set forth in MPEP § 803.02 and is,
133 accordingly, traversed. This interpretation places an unfair and unnecessary burden on
134 Applicant, and impedes his ability to completely claim his invention. Such a
135 requirement could result in the needless and burdensome expense of filing a multiplicity
136 of applications drawn to narrowly inventive subject matter. Furthermore, any failure of
137 Applicant to file an application drawn to each and every species would improperly and
138 unfairly expose Applicant to copiers who could easily practice, without fear of
139 infringement, any invention disclosed, but not claimed, as a result of this requirement
140 now made by the Examiner.

141 The above comments notwithstanding, the following is provided in an attempt to
142 completely respond to the Action.

143 None of the new claims contain a statement of a particular utility. Accordingly,
144 the requirement contained in numbered item 3 on page 2 of the Action is traversed as
145 being moot.

146 Independent claim 16 is drawn to a capsule having a first chemical composition
147 enclosed by a membrane comprised of a first material. As previously noted, claim 16
148 contains no Markush language. There is no requirement for restriction applicable to
149 claim 16.

150 Claim 17, which depends from claim 16, as mentioned, does include a Markush
151 group applicable to the first chemical composition referred to in claim 16. It is plain that
152 the content of the Markush group in claim 17 are species approved for election by the
153 Examiner in part (b) of numbered item 2 on page 2 of the Action. It is noted that the
154 Markush group in claim 17 is the group recited in original claims 5 and 10. It is the
155 apparent position of the Examiner that the Markush group included in claim 17 is
156 covered by the content of paragraph 1 of MPEP § 803.02 and that the Examiner,
157 accordingly, must examine claim 17. There is, thus, no requirement for restriction
158 applicable to claim 17.

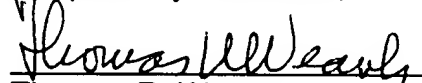
159 Claim 20, which depends from claim 18 which, in turn, depends from claim 17,
160 does include a Markush group applicable to the second material in the composite
161 material of the membrane. Claim 18 contains no Markush group. The Examiner should
162 be under no serious burden with regard to the content of claim 18. With respect to
163 claim 20, Applicant provisionally elects for examination, with traverse, as the second
164 material, the species recited in claim 28. Accordingly, this election complies with the
165 requirement of numbered item 1 on page 2 of the Action.

166 Claims 19 and 22, which depend from claims 17 and 20, respectively, do include
167 a Markush group applicable to the cross linking agents. With respect to claims 19 and
168 22, Applicant provisionally elects for examination, with traverse, as the cross linking

agent, the species recited in claims 24, 25, 30 and 31. Accordingly, this election complies with the requirement of numbered paragraph 4 on page 3 of the Action.

This application is now in condition for examination in accordance with the practice set forth in MPEP § 803.02. The only claims not available for immediate examination under the practice set forth in MPEP § 803.02 are, accordingly, claims 29, 31 and 33.

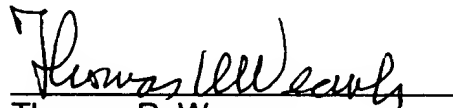
Respectfully submitted,


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CERTIFICATE OF MAILING

I hereby certify that the within and foregoing document, together with the attachments referred to therein, if any, is being deposited by the undersigned with the United States Postal Service as first class mail in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231 on the date written just below my signature.


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April 4, 2002
Date